

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA**

**CANDY KELLY, an individual, and
DAVID MICHAEL KELLY, an
individual,**

Plaintiffs,

v.

EVERETT R. ECHOLS, M.D., et al.,

Defendants.

CIV- F-05-118 AWI SMS

**ORDER DISMISSING
UNSERVED DEFENDANTS
AND CLOSING CASE**

On September 4, 2008, this Court granted Defendants EZ RX, Frank Hernandez, and Amada Hernandez's motion for summary judgment. As part of the order, the Court noted that three defendants, Everett Echols, Tom Chapman, and RX Medical had not been served within 120 days of filing the operative complaint. The Court ordered Plaintiff to either stipulate to dismissal or show cause why those unserved defendants should not be dismissed as per Federal Rule of Civil Procedure 4(m). On September 12, 2008, Plaintiff filed a stipulation to dismiss the unserved defendants. With the dismissal of the unserved defendants, and the order granting summary judgment in favor of the served defendants, there are no outstanding issues and this case may now close.

Accordingly, it is hereby ordered that:

1. Unserved defendants Everett Echols, Tom Chapman, and RX Medical are DISMISSED;
2. The Clerk will enter judgment in favor of Defendants EZ RX, Frank Hernandez, and Amada Hernandez; and
3. The Clerk will close this case.

IT IS SO ORDERED.

Dated: September 17, 2008

/s/ Anthony W. Ishii
CHIEF UNITED STATES DISTRICT JUDGE